

A. G. Contract No. KR99 0754TRN
ADOT ECS File No.: JPA 99-54
Project: HX08301C
Section: SR-260 @ SR-73 (HonDah) and
SR-73 @ IR-44 (Fatco Road)

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE WHITE MOUNTAIN APACHE TRIBE

THIS AGREEMENT is entered into 13 December 1999,
pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the
STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State")
and the WHITE MOUNTAIN APACHE TRIBE, acting by and through its TRIBAL COUNCIL (the "Tribe").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Tribe is empowered by Tribal Resolution Number 11-99-273 to enter into this agreement, a copy of which is attached hereto and made a part hereof, and has resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Tribe.

3. The State and the Tribe desire to design, construct, operate and maintain two new warranted traffic signals at the intersections of SR-260 at SR-73 (HonDah) and the intersection of SR-73 at IR-44 (Fatco Road), at a total estimated cost of \$210,000.00, hereinafter referred to as the Project, for the safety and benefit of the motoring public.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 23727

Filed with the Secretary of State

Date Filed: 12/13/99

Patsy Gayles

Secretary of State

Dick D. Greenwood

II. SCOPE

1. The State will:

- a. Provide to State standards design plans, specifications and such other documents and services required for construction bidding and construction of the signals Project. Incorporate Tribe review comments.
- b. Call for bids and award one or more construction contracts for the signals Project. Administer same and make all payments to the contractor(s). Confer with the Tribe on any Project related contract modifications, and be responsible for its proportionate share of same. Be responsible for any contractor claims for extra compensation attributable to the State.
- c. Upon completion, approve and accept the signals Project on behalf of the parties hereto, and provide maintenance to the signals.
- d. Be responsible for all costs associated with the SR-260 at SR-73 signal, in an amount currently estimated at \$90,000.00, and for fifty percent of the SR-73 at IR-44 signal, in an amount currently estimated at \$60,000.00. Upon completion, invoice the Tribe for its fifty percent (50%) share of the cost of the SR-73 at IR-44 signal Project, in an amount currently estimated at \$60,000.00.

2. The Tribe will:

- a. Complete all necessary SR-73 at IR-44 (Fatco Road) intersection geometric improvements prior to the the award of a construction contract for the Project, all at Tribal expense. Review the Project design documents and provide comments.
- b. Be responsible for fifty percent (50%) of the cost of the SR-73 at IR-44 signal Project construction cost, in an amount currently estimated at \$60,000.00.
- c. Upon completion of the Project provide electrical energy to operate both of the signals.
- d. Upon completion of the Project, and within 30 days after receipt of an invoice, pay the State the Tribe's fifty percent (50%) share for the cost of the SR-73 at IR-44 signal Project, in an amount currently estimated at \$60,000.00. Be responsible for its proportionate share of any signals Project related construction contract modifications, and for any contractor claims for extra compensation attributable to the Tribe.

III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of said Project and reimbursements; provided, however, that this agreement, except any provisions herein for maintenance and electrical energy, which shall be perpetual, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.
2. This agreement shall become effective upon filing with the Secretary of State.
3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511 as regards conflicts of interest on behalf of State employees.
4. The provisions of Arizona Revised Statutes Section 35-214 pertaining to record retention for a period of 5 years for audit purposes are applicable to this contract.

5. Applicable laws of the State, Federal and Tribal government shall govern the rights of the parties with respect to the performance of this agreement. The parties hereto shall select a process for the resolution of claims or disputes relating to this agreement, compliant with applicable laws and regulations of the State, Federal and Tribal government, and acceptable to the State and the Tribe. Such process shall include a provision for arbitration.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007


White Mountain Apache Tribe
Chairman
PO Box 1150
Whiteriver, AZ 85941


7. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

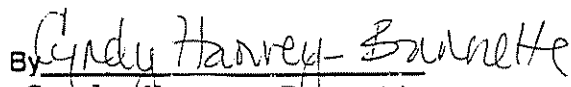
WHITE MOUNTAIN APACHE TRIBE

STATE OF ARIZONA
Department of Transportation

By 
DALLAS MASSEY, SR.
Chairman

By 
MICHAEL P. MANTHEY
State Traffic Engineer

ATTEST

By 
Cindy Harvey-Burnette
Council Secretary

**RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

WHEREAS, by virtue of the Tribe's inherent sovereignty over the lands and natural resources of the Fort Apache Indian Reservation, in addition to the powers listed in the Tribal Constitution, the Tribal Council has the authority to ensure the safety of all residents within the Fort Apache Indian Reservation; and

WHEREAS, the Tribal Council recognizes that one traffic control signal placed at the intersection of SR-73 and SR-260 near Hon Dah Casino and one traffic control signal placed at the intersection of SR-73 and IR-44 near the Bashas' shopping complex would help control the flow of traffic at these intersections; and

WHEREAS, the State of Arizona has submitted an Intergovernmental Agreement to the Tribal Council for its review, and such Agreement requires the State to be responsible for all costs associated with the signal at the intersection of SR-260 and SR-73 in an amount estimated at \$90,000 and for the Tribe and State to split the cost for the signal at the intersection SR-73 and IR-44 at an estimated cost of \$60,000 each; and

WHEREAS, the State of Arizona shall be solely responsible for maintenance for both traffic signals described herein, and the White Mountain Apache Tribe shall be responsible for providing electrical energy necessary to operate both signals.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby endorses the proposed agreement between the Tribe and the State of Arizona to construct, operate and maintain one traffic control signal at the intersection of SR-260 and SR-73 and one traffic signal at the intersection of SR-73 and IR-44.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby endorses the implementation of this project as soon as possible for its completion before April 2000.

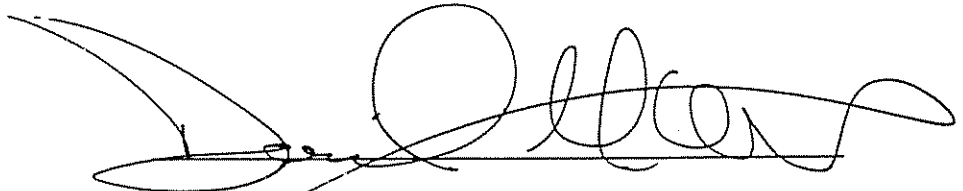
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it authorizes the Chairman, or, in his absence, the Vice-Chairman to sign all documents and agreements necessary to effectuate this resolution.

The foregoing resolution was on November 4, 1999 duly adopted by a vote of TEN for and ZERO against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in

APPROVAL OF THE WHITE MOUNTAIN APACHE TRIBAL ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the WHITE MOUNTAIN APACHE TRIBE and declare this agreement to be in proper form and within the powers and authority granted to the Tribe under the laws of the Tribe.

DATED this 19th day of October, 1999.


Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

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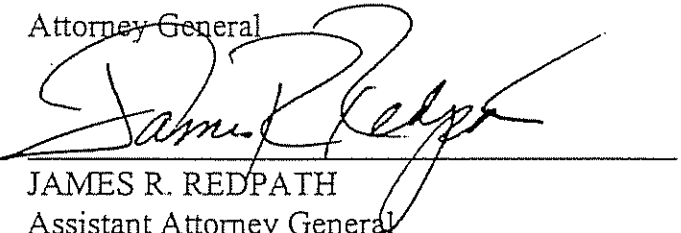
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR99-0754TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED December 6, 1999.

JANET NAPOLITANO
Attorney General


JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:et/600709

Enc.